

# **SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT**

Audit Report

## **HEALTH FEE ELIMINATION PROGRAM**

Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session,  
and Chapter 1118, Statutes of 1987

*July 1, 1999, through June 30, 2002*



**STEVE WESTLY**  
California State Controller

January 2005



**STEVE WESTLY**  
**California State Controller**

January 7, 2005

Mr. Ron Galatolo  
Chancellor-Superintendent  
San Mateo County Community College District  
3401 CSM Drive  
San Mateo, CA 94402-3699

Dear Mr. Galatolo:

The State Controller's Office audited the claims filed by the San Mateo County Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 1999, through June 30, 2002.

The district claimed \$1,259,226 for the mandated program. Our audit disclosed that \$241,840 is allowable and \$1,017,386 is unallowable. The unallowable costs occurred because the district claimed unsupported costs for salaries and benefits, and services and supplies, and understated offsetting revenues. The district was paid \$562,846. The amount paid in excess of allowable costs claimed totals \$321,006.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site at [www.csm.ca.gov](http://www.csm.ca.gov) (Guidebook link), and obtain IRC forms by telephone at (916) 323-3562 or by e-mail at [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov).

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

*Original Signed By:*

VINCENT P. BROWN  
Chief Operating Officer

VPB:JVB/ams

cc: Ed Monroe, Program Assistant  
Fiscal Accountability Section  
Chancellor's Office  
California Community Colleges  
Jeannie Oropeza, Program Budget Manager



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# Audit Report

## Summary

The State Controller's Office (SCO) audited the claims filed by the San Mateo County Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session (E.S.), and Chapter 1118, Statutes of 1987) for the period of July 1, 1999, through June 30, 2002. The last day of fieldwork was October 1, 2004.

The district claimed \$1,259,226 for the mandated program. Our audit disclosed that \$241,840 is allowable and \$1,017,386 is unallowable. The unallowable costs occurred because the district claimed unsupported costs for salaries and benefits, and services and supplies, and understated offsetting revenues. The district was paid \$562,846. The amount paid in excess of allowable costs claimed totals \$321,006.

## Background

*Education Code* Section 72246, (repealed by Chapter 1, Statutes of 1984, 2<sup>nd</sup> E.S.) authorized community college districts to charge a health fee for providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating the community college districts' authority to charge a health fee as specified.

*Education Code* Section 72246 (amended by Chapter 1118, Statutes of 1987) requires any community college district that provided health services in FY 1986-97 to maintain health services at the level provided during that year in FY 1987-88 and each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (COSM) determined that Chapter 1, Statutes of 1984, 2<sup>nd</sup> E.S., imposed a "new program" upon community college districts by requiring any community college district that provided health services for which it was authorized to charge a fee pursuant to former *Education Code* Section 72246 in FY 1983-84 to maintain health services at the level provided during that year in FY 1984-85 and each fiscal year thereafter. This maintenance-of-effort (MOE) requirement applies to all community college districts that levied a health services fee in FY 1983-84, regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the FY 1983-84 level.

On April 27, 1989, COSM determined that Chapter 1118, Statutes of 1987, amended this MOE requirement to apply to all community college districts that provided health services in FY 1986-87, and required them to maintain that level in FY 1987-88 and each fiscal year thereafter.

*Parameters and Guidelines* establishes the state mandate and defines criteria for reimbursement. COSM adopted the *Parameters and Guidelines* on August 27, 1987, and amended it on May 25, 1989. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement in assisting school districts in claiming reimbursable costs.

## **Objective, Scope, and Methodology**

Our audit objective was to determine whether costs claimed are increased costs incurred as a result of the Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> E.S., and Chapter 1118, Statutes of 1987) for the period of July 1, 1999, through June 30, 2002.

We performed the following procedures:

- Reviewed the costs claimed to determine if they were increased costs resulting from the mandated program;
- Traced the costs claimed to the supporting documentation to determine whether the costs were properly supported;
- Confirmed that the costs claimed were not funded by another source; and
- Reviewed the costs claimed to determine that the costs were not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority provided by *Government Code* Sections 17558.5 and 17561. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the amounts claimed for reimbursement were supported.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

## **Conclusion**

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, San Mateo County Community College District claimed \$1,259,226 for costs of the legislatively mandated Health Fee Elimination Program. Our audit disclosed that \$241,840 is allowable and \$1,017,386 is unallowable.

For FY 1999-2000, the district was paid \$357,148 by the State. Our audit disclosed that \$31,949 is allowable. The district should return \$325,199 to the State.

For FY 2000-01, the district was paid \$111,475 by the State. Our audit disclosed that \$81,694 is allowable. The district should return \$29,781 to the State.

For FY 2001-02, the district was paid \$94,223 by the State. Our audit disclosed that \$128,197 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$33,974, contingent upon available appropriations.

**Views of  
Responsible  
Official**

We issued a draft audit report on October 28, 2004. Jim Keller, Executive Vice-Chancellor, responded by letter dated November 15, 2004 (Attachment), disagreeing with the audit results. The final audit report includes the district's response.

**Restricted Use**

This report is solely for the information and use of San Mateo County Community College District, the San Mateo County Office of Education, the California Department of Education, the California Community Colleges Chancellor's Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original Signed By:*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

# Schedule 1— Summary of Program Costs July 1, 1999, through June 30, 2002

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference</u> <sup>1</sup>
<u>July 1, 1999, through June 30, 2000</u>				
Salaries	\$ 552,729	\$ 367,095	\$(185,634)	Finding 1
Benefits	92,265	61,278	(30,987)	Finding 1
Services and supplies	24,276	24,276	—	
Other operating expenses	63,624	63,624	—	
Capital outlays	13,491	13,491	—	
Subtotals	746,385	529,764	(216,621)	
Indirect costs	223,916	128,513	(95,403)	Findings 1, 3
Subtotals, health expenditures	970,301	658,277	(312,024)	
Less offsetting savings/reimbursements	613,153	(626,328)	(13,175)	Finding 4
Total costs	<u>\$ 357,148</u>	(31,949)	<u>\$(325,199)</u>	
Less amount paid by the State		(357,148)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (325,199)</u>		
<u>July 1, 2000, through June 30, 2001</u>				
Salaries	\$ 550,480	\$ 387,826	\$(162,654)	Finding 1
Benefits	91,530	64,485	(27,045)	Finding 1
Services and supplies	37,335	37,335	—	
Other operating expenses	60,628	60,628	—	
Capital outlays	11,131	11,131	—	
Subtotals	751,104	561,405	(189,699)	
Indirect costs	225,331	135,693	(89,638)	Findings 1, 3
Subtotals, health expenditures	976,435	697,098	(279,337)	
Less offsetting savings/reimbursements	(615,404)	(615,404)	—	
Total costs	<u>\$ 361,031</u>	(81,694)	<u>\$(279,337)</u>	
Less amount paid by the State		(111,475)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (29,781)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Salaries	\$ 601,571	\$ 428,365	\$(173,206)	Finding 1
Benefits	106,283	75,682	(30,601)	Finding 1
Services and supplies	42,558	42,558	—	
Other operating expenses	100,573	59,198	(41,375)	Finding 2
Capital outlays	20,530	20,530	—	
Subtotals	871,515	626,333	(245,182)	
Indirect costs	261,454	151,214	(110,240)	Findings 1, 3



**Schedule 1 (continued)**

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference</u> <sup>1</sup>
<u>July 1, 2001, through June 30, 2002 (continued)</u>				
Subtotals, health expenditures	1,132,969	777,547	(355,422)	
Less offsetting savings/reimbursements	<u>(591,922)</u>	<u>(649,350)</u>	<u>(57,428)</u>	Finding 4
Total costs	<u>\$ 541,047</u>	128,197	<u>\$ (412,850)</u>	
Less amount paid by the State		<u>(94,223)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 33,974</u>		
<u>Summary: July 1, 1999, through June 30, 2002</u>				
Salaries	\$ 1,704,780	\$ 1,183,286	\$ (521,494)	Finding 1
Benefits	290,078	201,445	(88,633)	Finding 1
Services and supplies	104,169	104,169	—	
Other operating expenses	224,825	183,450	(41,375)	Finding 2
Capital outlays	<u>45,152</u>	<u>45,152</u>	<u>—</u>	
Subtotals	2,369,004	1,717,502	(651,502)	
Indirect costs	<u>710,701</u>	<u>415,420</u>	<u>(295,281)</u>	Findings 1, 3
Subtotals, health expenditures	3,079,705	2,132,921	(946,784)	
Less offsetting savings/reimbursements	<u>(1,820,479)</u>	<u>(1,891,082)</u>	<u>(70,603)</u>	Finding 4
Total costs	<u>\$ 1,259,226</u>	241,840	<u>\$ (1,017,386)</u>	
Less amount paid by the State		<u>(562,846)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (321,006)</u>		

<sup>1</sup> See the Findings and Recommendations section.

# Findings and Recommendations

## **FINDING 1— Unallowable salaries and benefits, and related indirect costs claimed**

The district overstated employee salaries and benefits claimed by \$610,127 for the period of July 1, 1999, through June 30, 2002. The related indirect costs, based on the claimed indirect cost rate of 30% for each fiscal year, total \$183,038.

Unallowable costs are summarized as follows:

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Salaries:				
Unsupported costs	\$ (196,353)	\$ (162,057)	\$ (171,932)	\$ (530,342)
Mathematical errors	10,719	(597)	(1,274)	8,848
Total salaries	(185,634)	(162,654)	(173,206)	(521,494)
Benefits	(30,987)	(27,045)	(30,601)	(88,633)
Subtotals	(216,621)	(189,699)	(203,807)	(610,127)
Related indirect costs	(64,986)	(56,910)	(61,142)	(183,038)
Audit adjustment	<u>\$ (281,607)</u>	<u>\$ (246,609)</u>	<u>\$ (264,949)</u>	<u>\$ (793,165)</u>

The district claimed \$530,342 in salaries based on information reported in its employee earnings report that allocated individual payroll costs to various accounts. The district did not provide documentation supporting the validity of the distribution made to the mandate. In addition, the district made mathematical errors when preparing the claim that resulted in understated salary costs of \$8,848. Related benefits and indirect costs total \$88,633 and \$183,038, respectively.

*Parameters and Guidelines* states that all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Documentation must be kept on file for a period of no less than three years from the date of the final payment of the claim.

### Recommendation

We recommend that the district establish and implement procedures to ensure all claimed costs are eligible and are properly supported. Documentation should identify the mandated functions performed and the actual number of hours devoted to each function.

### District's Response

The State Controller asserts that the District overstates employee salaries and benefits because it “did not provide documentation supporting the validity of the distribution made to the mandate.” The State Controller does not assert that the claimed costs were excessive or reasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)). It would therefore appear that this finding is based upon the wrong standard for review. If the State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the

## Administrative Procedures Act.

The issue for the State Controller appears to be the quality or quantity of supporting documentation, rather than the reasonableness of the claimed costs. This finding is based, partially, upon the report's assertion that the "*Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs." The *Parameters and Guidelines* actually state, in that regard, that "...all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs." It appears as if the audit report is applying some previously unpublished definition to the term "source documents." In fact, the definition applied by the audit report is still undefined and unpublished because nowhere in the report does it state what kind of "source documents" would satisfy its unpublished demands.

Please identify and provide the district with any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period which defines "source documents" and how and when claimants were notified of the specific documentation requirements to support salary and benefit costs.

Government Code section 6253, subdivision (c), requires a government agency, within 10 days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of public records in your possession and to promptly notify the district of that determination and the reasons therefor. Also, as required, when so notifying the district, please state the estimated date and time when the records will be made available.

SCO's Comment

The finding and recommendation, other than an update to the audit criterion, remain unchanged. The district did not address the audit finding's factual accuracy and did not provide any additional source documents or worksheets to refute the finding.

In addition to what the district cited in its response, *Government Code* Section 17561(d)(2) states that the Controller may audit the records of any local agency or school district to verify the actual amount of the mandated costs.

We provided copies of *Parameters and Guidelines* and the SCO's claiming instructions to the district on November 24, 2004. The SCO issues annual claiming instructions for mandated programs in accordance with *Government Code* Section 17558. The SCO's claiming instructions for the audit period include the same guidance for supporting documentation as stated in *Parameters and Guidelines*.

**FINDING 2—  
Unallowable other  
outgoing expenses**

The district overstated other outgoing expense costs by \$41,375 for the period of July 1, 2001, through June 30, 2002.

The district claimed costs based on amounts recorded on three separate journal voucher transactions. However, the district did not provide any documentation supporting the validity of the costs claimed, e.g., in invoices or other source documents.

A breakdown by college of unallowable outgoing expenses for FY 2001-02 is as follows:

<u>Location</u>	<u>Amount Claimed</u>
College of San Mateo	\$ (16,063)
Skyline College	(22,836)
Canada College	<u>(2,476)</u>
Audit adjustment	<u>\$ (41,375)</u>

*Parameters and Guidelines* states that all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Documentation must be kept on file for a period of no less than three years from the date of the final payment of the claim.

**Recommendation**

We recommend the district establish and implement procedures to ensure all claimed costs are properly supported. Costs claimed must be traceable to source documents that show evidence of the validity of such costs.

**District's Response**

The district did not respond to this finding.

**SCO's Comment**

The finding and recommendation, other than an update to the audit criterion, remain unchanged.

**FINDING 3—  
Overstated indirect  
costs**

The district overstated indirect costs by \$112,243 for the period of July 1, 1999, through June 30, 2002.

The overstatement occurred because the district improperly applied its claimed indirect cost rate to costs beyond those approved by the U.S. Department of Health and Human Services (DHHS). The district used an indirect cost rate of 30% based upon Office of Management and Budget (OMB) Circular A-21 that was approved by the DHHS. The approval letter, dated February 4, 1999, stated that the district's indirect cost rate used a base consisting of "Direct Salaries and Wages including all fringe benefits." During the audit period, the district improperly applied the indirect cost rate to direct services and supplies, other operating

expenses, and capital outlay costs as follows:

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Services and supplies	\$ (24,276)	\$ (37,335)	\$ (42,558)	
Other operating expenses	(63,624)	(60,628)	(100,573)	
Capital outlays	<u>(13,491)</u>	<u>(11,131)</u>	<u>(20,530)</u>	
Subtotals	(101,391)	(109,094)	(163,661)	
Indirect cost rate	<u>× 30%</u>	<u>× 30%</u>	<u>× 30%</u>	
Audit adjustment	<u>\$ (30,417)</u>	<u>\$ (32,728)</u>	<u>\$ (49,098)</u>	<u>\$ (112,243)</u>

*Parameters and Guidelines* states that indirect costs may be claimed in the manner described in the SCO claiming instructions. The SCO claiming instructions state that community college districts using an indirect cost rate proposal (ICRP) prepared in accordance with OMB Circular A-21 must obtain federal approval of the ICRP.

The SCO's *Mandated Cost Manual* states that indirect costs must be distributed to benefiting cost objectives on bases, which produce an equitable result in relation to the benefits derived by the mandate.

The OMB Circular A-21 methodology allows colleges and universities to calculate their indirect cost rate under the simplified method using either salaries and wages or modified total direct costs. The district's indirect cost rate was proposed and negotiated based on salaries and wages including all fringe benefits, not on modified total direct costs. The appropriate rate application base is shown on the rate agreement. The district must adhere to its rate agreement in claiming reimbursement of indirect costs.

### Recommendation

We recommend that the district implement policies and procedures to ensure the OMB Circular A-21 indirect cost rate is applied only to the costs included in the base of the indirect cost rate calculation.

### District's Response

The State Controller asserts "during the audit period, the district improperly applied the indirect cost rate to direct services and supplies, other operating expenses, and capital outlay costs. . ." The district uses a federally approved indirect cost rate. Since the rate was calculated using salaries and benefits as the allocation base, the State Controller asserts that the rate cannot be applied to any other indirect costs except for salaries and benefits. No cost accounting rationale or legal basis for this peculiar conclusion is provided by the State Controller.

The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the State Controller. The State Controller's claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the State Controller to show, either factually or as a matter of law, that the indirect cost rate method used by the District is excessive or

unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)). If the State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the Administrative Procedures Act.

#### SCO's Comment

The finding and recommendation remain unchanged. The district interpreted *Parameters and Guidelines* language incorrectly. The phrase "may be claimed" is permissive; it allows the district to claim indirect costs. If the district claims indirect costs, the costs must adhere to the SCO's claiming instructions.

The district received an Indirect Cost Negotiation Agreement from the U.S. Department of Health and Human Services. The agreement indicates that the district's approved OMB Circular A-21 rate was developed using salaries and wages including all fringe benefits as a distribution base. Section H(2)(e) of OMB Circular A-21 states that institutions must apply the facilities and administrative cost rate to direct salaries and wages for individual agreements to determine the amount of facilities and administrative costs allocable to such agreements.

Mr. Wallace Chan, Branch Chief, U.S. Department of Health and Human Services, stated via e-mail on May 21, 2004, that colleges and universities must adhere to their rate agreement in claiming reimbursement of indirect cost under federal awards. If the district wishes to apply its indirect cost rate to a distribution base other than salaries and wages, the district's approved A-21 rate must be based on modified total direct costs.

In addition to what the district cited in its response, *Government Code* Section 17561(d)(2) states that the Controller may audit the records of any local agency or school district to verify the actual amount of the mandated costs.

#### **FINDING 4— Understated authorized health fee revenues claimed**

The district understated offsetting health fee revenues by \$70,603 for the period of July 1, 1999, through June 30, 2001, due to an authorized \$1 increase in health fees that was not charged for the FY 1999-2000 summer semester and for all three semesters of FY 2001-02. Health fee revenues were understated as follows:

	<u>Summer</u>	<u>Fall</u>	<u>Spring</u>	<u>Total</u>
Fiscal year 1999-2000:				
Claimed health fees	\$ 7	\$ —	\$ —	
Authorized health fees	<u>8</u>	<u>—</u>	<u>—</u>	
Subtotals	(1)	—	—	
Number of students subject to fee	<u>× 13,175</u>	<u>× —</u>	<u>× —</u>	
Audit adjustment, FY 1999-2000	<u>\$ (13,175)</u>	<u>\$ —</u>	<u>\$ —</u>	\$ (13,175)

	<u>Summer</u>	<u>Fall</u>	<u>Spring</u>	<u>Total</u>
Fiscal year 2001-02:				
Claimed health fees	\$ 8	\$ 11	\$ 11	
Authorized health fees	<u>9</u>	<u>12</u>	<u>12</u>	
Subtotals	(1)	(1)	(1)	
Number of students subject to fee	<u>× 13,262</u>	<u>× 21,579</u>	<u>× 22,587</u>	
Audit adjustment, FY 2001-02	<u>\$ (13,262)</u>	<u>\$ (21,579)</u>	<u>\$ (22,587)</u>	<u>(57,428)</u>
Total audit adjustment				<u>\$ (70,603)</u>

*Parameters and Guidelines* states that health fees authorized by the *Education Code* must be deducted from costs claimed.

In addition, *Government Code* Section 17514 states that costs mandated by the State means any increased costs that a school district is required to incur. To the extent community college districts can charge a fee, they are not required to incur a cost. In addition, *Government Code* Section 17556 states that the Commission on State Mandates shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.

#### Recommendation

We recommend that the district ensure that it offsets allowable health services program costs by the amount of health service fee revenues authorized by the *Education Code*.

#### District's Response

The State Controller alleges that claimants must compute the total student health fees collectible based on the highest "authorized" rate. The State Controller does not provide the factual basis for the calculation of the "authorized" rate, nor provide any reference to the "authorizing" source, nor the legal right of any state entity to "authorize student health services rates absent rulemaking or compliance with the Administrative Procedures Act by the "authorizing" state agency.

Education Code Section 76355, subdivision (a), states that "The governing board of a district maintaining a community college may require community college students to pay a fee . . . for health supervision and services. . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "~~If~~, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

The State Controller asserts that the parameters and guidelines require "that health fees authorized by the Education Code must be deducted

from the costs claimed.” This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on May 25, 1989, state that “~~Any~~ offsetting savings . . . must be deducted from the costs claimed. . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)<sup>1</sup>.” Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

The State Controller also misconstrues the legal meaning of Government Code Section 17556, which prohibits the Commission on State Mandates from approving test claims when the local government agency has authority to charge a fee sufficient to fund the cost of the mandate. The Commission determined that the mandate was a new program or increased level of service. Even the source of the mandate, Education Code Section 76355, at subdivision (e), allows for the possibility that the “cost to maintain that level of service” will exceed the statutory limit for the student health fees.

Finally, the State Controller asserts that “to the extent that community college districts can charge a fee, they are not required to incur a cost.” Revenues and costs are separate and unique accounting concepts, as the State Controller should know. Not charging a fee, that is, not collecting a revenue or income, has no effect on expenses. The fees actually collected appropriately reduces the amounts claimed for reimbursement, but do not change the actual cost of the program.

#### SCO’s Comment

The finding and recommendation remain unchanged. We agree that community college districts may choose not to levy a health services fee. However, *Parameters and Guidelines* requires that the district deduct authorized health fees from claimed costs. *Education Code* Section 76355(c) authorizes health fees for all students except those students who: (1) depend exclusively on prayer for healing; (2) attend a community college under an approved apprenticeship training program; or (3) demonstrate financial need. (*Education Code* Section 76355(a) increased authorized health fees by \$1 effective with the Summer 2001 session.) Therefore, the related health services costs are not mandated costs as defined by *Government Code* Section 17514. Health services costs recoverable through an authorized fee are not costs the district is required to incur. *Government Code* Section 17556 states that the COSM shall not find costs mandated by the State as defined in *Government Code* Section 17514 if the district has authority to levy fees to pay for the mandated program or increased level of service.

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<sup>1</sup> Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.



## **OTHER ISSUES**

The district requested that the audit report be changed to comply with the appropriate application of the *Government Code* concerning audits of mandate claims.

The district also noted that the name of the district is San Mateo County Community College District.

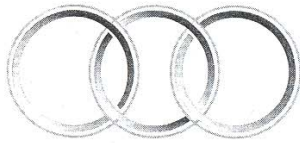
### **SCO's Comment**

The methodology section of this report has been updated to reference *Government Code* Section 17561, which states that the Controller may audit the records of any local agency or school district to verify the actual amount of the mandated costs.

This report now correctly identifies the name of the district.

**Attachment—  
District's Response to  
Draft Audit Report**

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SAN MATEO COUNTY  
COMMUNITY COLLEGE DISTRICT

Associate Chancellor

Cañada College, Redwood City  
College of San Mateo, San Mateo  
Skyline College, San Bruno

November 15, 2004

CERTIFIED MAIL: 7000 1670 0002 2598 7604

Mr. Jim L. Spano, Chief  
Compliance Audits Bureau  
California State Controller  
Division of Audits  
P.O. Box 942850  
Sacramento, CA 94250-5874

Re: Chapter 1, Statutes of 1984  
Health Fee Elimination  
State Controller's Audit  
Fiscal Years: 2001-02 and 2002-03

Dear Mr. Spano:

This letter is the response of the San Mateo County Community College District to the letter from Vincent P. Brown, Chief Operating Officer, State Controller's Office, dated October 28, 2004, and received by the District on November 5, 2004, which enclosed a draft copy of your audit report of the District's Health Fee Elimination claims for the period of July 1, 1999 through June 30, 2002. Please note for future use that name of this district is San Mateo *County* Community College District.

**Finding 1 - Unallowable Salaries and Benefits and Related Indirect Costs**

The State Controller asserts that the District overstates employee salaries and benefits because it "did not provide documentation supporting the validity of the distribution made to the mandate." The State Controller does not assert that the claimed costs were excessive or reasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d) (2)). It would therefore appear that this finding is based upon the wrong standard for review. If the State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the Administrative Procedures Act.

The issue for the State Controller appears to be the quality or quantity of supporting

documentation, rather than the reasonableness of the claimed costs. This finding is based, partially, upon the report's assertion that the "*Parameters and Guidelines* states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs." The *Parameters and Guidelines* actually state, in that regard, that "...all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs." It appears as if the audit report is applying some previously unpublished definition to the term "source documents." In fact, the definition applied by the audit report is still undefined and unpublished because nowhere in the report does it state what kind of "source documents" would satisfy its unpublished demands.

Please identify and provide the district with any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period which defines "source documents" and how and when claimants were notified of the specific documentation requirements to support salary and benefit costs.

Government Code section 6253, subdivision (c), requires a government agency, within 10 days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of public records in your possession and to promptly notify the district of that determination and the reasons therefor. Also, as required, when so notifying the district, please state the estimated date and time when the records will be made available.

### **Finding 3 - Overstated Indirect Costs**

The State Controller asserts "during the audit period, the district improperly applied the indirect cost rate to direct services and supplies, other operating expenses, and capital outlay costs..." The district uses a federally approved indirect cost rate. Since the rate was calculated using salaries and benefits as the allocation base, the State Controller asserts that the rate cannot be applied to any other indirect costs except for salaries and benefits. No cost accounting rationale or legal basis for this peculiar conclusion is provided by the State Controller.

The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the State Controller. The State Controller's claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the State Controller to show, either factually or as a matter of law, that the indirect cost rate method used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d) (2). If the State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the Administrative Procedures Act.



**Finding 4 - Understated Authorized Health Fee Revenues Claimed**

The State Controller alleges that claimants must compute the total student health fees collectible based on the highest "authorized" rate. The State Controller does not provide the factual basis for the calculation of the "authorized" rate, nor provide any reference to the "authorizing" source, nor the legal right of any state entity to "authorize" student health services rates absent rulemaking or compliance with the Administrative Procedures Act by the "authorizing" state agency.

Education Code Section 76355, subdivision (a), states that "The governing board of a district maintaining a community college may require community college students to pay a fee . . . for health supervision and services . . . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

The State Controller asserts that the parameters and guidelines require "that health fees authorized by the Education Code must be deducted from the costs claimed." This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on May 25, 1989, state that "Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)<sup>1</sup>." Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

The State Controller also misconstrues the legal meaning of Government Code Section 17556, which prohibits the Commission on State Mandates from approving test claims when the local government agency has authority to charge a fee sufficient to fund the cost of the mandate. The Commission determined that the mandate was a new program or increased level of service. Even the source of the mandate, Education Code Section 76355, at subdivision (e), allows for the possibility that the "cost to maintain that level of service" will exceed the statutory limit for the student health fees.

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<sup>1</sup> Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

Finally, the State Controller asserts that "to the extent that community college districts can charge a fee, they are not required to incur a cost." Revenues and costs are separate and unique accounting concepts, as the State Controller should know. Not charging a fee, that is, not collecting a revenue or income, has no effect on expenses. The fees actually collected appropriately reduces the amounts claimed for reimbursement, but do not change the actual cost of the program.

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The District requests that the audit report be changed to comply with the appropriate application of the Government Code concerning audits of mandate claims.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Keller", with a long horizontal flourish extending to the right.

Jim Keller, Executive Vice Chancellor  
San Mateo County Community College District

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, California 94250-5874**

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